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FILED
MAY 23 1994
OFFICE OF THE CLERK

No. 93-1478

In the Supreme Court of the United States

OCTOBER TERM, 1993

DONALD G. ANDERSON, ET AL., PETITIONERS

v.

MERIT SYSTEMS PROTECTION BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

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4 pp

QUESTIONS PRESENTED*

1. Whether (in No. 93-1468) the Civil Service Reform Act of 1978, as amended, precludes an action brought by petitioners in district court to seek redress for their termination from federal employment.

2. Whether (in No. 93-1478) the Merit Systems Protection Board properly dismissed petitioners' appeal of their termination on the ground that they were hired as temporary employees.

3. Whether (in both cases) petitioners' failure to find either a judicial forum or an administrative forum for review of the merits of their claims based on termination of their federal employment violates the Due Process Clause of the Constitution.

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* Petitioners have filed two petitions for certiorari (Nos. 93-1468 and 93-1478) seeking review of decisions in two actions that arose out of the same events. The response in No. 93-1468 addresses both petitions.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1-11) is reported at 12 F.3d 1069. The opinion of the Merit Systems Protection Board (Pet. App. 12-20) is reported at 56 M.S.P.R. 316.

JURISDICTION

The judgment of the court of appeals was entered on December 16, 1993. The petition for a writ of certiorari was filed on March 15, 1994. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

The present petition raises the same issues as those in the petition for a writ of certiorari to the

United States Court of Appeals for the Ninth Circuit (No. 93-1468), filed by petitioners in a closely related case.** These two petitions should be considered together; the petitions contain identical Statement, Argument, and Conclusion sections. We discuss the merits of both petitions in the brief in opposition filed in No. 93-1468. The Court is referred to that brief for a discussion of the petition in this case.

CONCLUSION

For the reasons stated in the response filed in No. 93-1468, the petition for a writ of certiorari should be denied.

Respectfully submitted.

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MAY 1994

** The appendix to the present petition also includes the decisions in the related case, specifically, the unreported opinion of the Ninth Circuit (Pet. App. 38-43) and the unreported opinions of the District Court for the District of Montana (Pet. App. 21-34, 35-37).